

In the Matter of:)
)
Application for)
Certification for the) Docket No. 99-AFC-7
PASTORIA ENERGY FACILITY)
(ENRON NORTH AMERICA CORP.))
_____)

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert A. Laurie, Presiding Member

STAFF PRESENT

Susan Gefter, Hearing Officer

Melissa Jones, Advisor to Commissioner Moore

Dick Ratliff, Staff Counsel

Kae Lewis, Project Manager

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Roberta Mendonca

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INTERVENORS

Mary Griffin
Lois Watson
Kern Audubon Society
Bakersfield, CA

Arthur Unger
Kern Chapter
Sierra Club

ALSO PRESENT

Catalin Micsa
California Independent System Operator

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 2:00 p.m.

3 PRESIDING MEMBER LAURIE: Ladies and
4 gentlemen, good afternoon. My name is Robert
5 Laurie; I'm Presiding Member of the Commission
6 Committee hearing the Pastoria Energy Facility
7 matter.

8 To my right is Ms. Susan Gefter. Ms.
9 Gefter is the Hearing Officer assigned to the
10 case. Ms. Gefter will administer these
11 proceedings today.

12 To Ms. Gefter's right is Melissa Jones.
13 Ms. Jones is Commissioner Moore's Advisor.
14 Commissioner Moore is unable to join us today.
15 Ms. Jones is here in his stead.

16 Ms. Gefter will start off by asking all
17 parties to introduce themselves. We do understand
18 that we are doing teleconferencing and we'll have
19 to test that to make sure that our recording is
20 working in that regard. And we will be asking all
21 of you to identify yourselves. Of course, if you
22 are there and we can't hear you, we won't know
23 whether you're identifying yourself or not.

24 DR. UNGER: Hello?

25 MS. MENDONCA: That must be Arthur right

1 now.

2 PRESIDING MEMBER LAURIE: We will get to
3 the folks on line in a moment.

4 So, at this point I'll call upon Ms.
5 Gefter for a recitation of the manner in which we
6 are going to proceed today. And then an
7 introduction of parties that are either here in
8 person or on the telephone. And we want to make
9 sure that our Public Adviser, Ms. Mendonca, has an
10 opportunity to comment as part of the introduction
11 phase, as well.

12 Ms. Gefter.

13 HEARING OFFICER GEFTER: This is a
14 prehearing conference on ENRON's application for
15 certification for the Pastoria Energy Facility.
16 And as Commissioner Laurie indicated, we provided
17 a toll free phone number for interested parties to
18 participate if they could not attend in person.

19 At this point I'd like to have the
20 applicant introduce yourself and your
21 representatives; and then we'll ask staff and the
22 intervenors to introduce themselves.

23 MR. THOMPSON: Thank you, Ms. Gefter,
24 Mr. Commissioner.

25 My name is Allan Thompson; I'm

1 representing the applicant. To my right is Mr.
2 Sam Wehn, ENRON's Project Manager for the Pastoria
3 Project. And behind me are Jennifer Scholl, Lead
4 Environmental Support and Joe Patch, Lead
5 Engineering Support for the project.

6 HEARING OFFICER GEFTER: Thank you.
7 Staff.

8 MS. LEWIS: I'm Kae Lewis; I'm Project
9 Manager for the Energy Commission. To my left is
10 Dick Ratliff, Staff Counsel.

11 HEARING OFFICER GEFTER: And we have two
12 intervenors present today. Ms. Mendonca, could
13 you ask them to introduce themselves.

14 MS. MENDONCA: Yes, my name is Roberta
15 Mendonca. I'm the Public Adviser at the
16 California Energy Commission. I believe we have
17 one intervenor, Arthur Unger is teleconferencing
18 in.

19 HEARING OFFICER GEFTER: Mr. Unger, are
20 you on the phone?

21 DR. UNGER: Not really.

22 (Laughter.)

23 DR. UNGER: I heard Allan and I heard
24 distant voices.

25 HEARING OFFICER GEFTER: All right.

1 DR. UNGER: But Allan is the only one I
2 understood.

3 MS. MENDONCA: How about me? Can you
4 hear me now? I'm Roberta.

5 DR. UNGER: A little better, Roberta.
6 If it doesn't get any better than that I can
7 follow, but it's not easy.

8 MS. MENDONCA: Okay, we hear you very
9 well. We can hear you very very well, so we're
10 working on the microphones here in the room to
11 make sure that you can hear us.

12 DR. UNGER: Thank you.

13 MS. MENDONCA: Okay.

14 HEARING OFFICER GEFTER: And Mr. Unger
15 is representing the Sierra Club?

16 MS. MENDONCA: Mr. Unger, could you
17 introduce yourself for the record, spell your name
18 and tell us who you represent, please.

19 DR. UNGER: Arthur Unger, U-n-g-e-r,
20 Kern-Towea Chapter, Sierra Club, and thank you for
21 accepting us as intervenors.

22 Mary Griffin is another intervenor, and
23 she said she'd be there.

24 HEARING OFFICER GEFTER: She is here.
25 We're going to ask her to introduce herself now.

1 DR. UNGER: Okay.

2 HEARING OFFICER GEFTER: Okay, so now
3 it's her turn, thank you. We'll get back to you
4 in a few minutes.

5 MS. GRIFFIN: Mary Griffin on behalf of
6 Kern Audubon Society.

7 MS. WATSON: I'm Lois Watson, Kern
8 Audubon.

9 HEARING OFFICER GEFTER: Ms. Mendonca,
10 do you have any other information for us on
11 members of the public who may be interested in
12 participating?

13 MS. MENDONCA: Basically at this time I
14 would reiterate that the Public Adviser has
15 adopted the practice of filing status reports, and
16 I will file a status report on this case which
17 will outline the outreach into the community and
18 the workshops that I've attended, and the meetings
19 that I've had with the intervenors.

20 HEARING OFFICER GEFTER: Thank you. I
21 understand there is a representative from Cal-ISO
22 on the phone. Mr. Micsa, could you introduce
23 yourself, please? Can you hear us?

24 MR. MICSA: Susan?

25 HEARING OFFICER GEFTER: Yes.

1 MR. MICSA: This is Catalin Micsa; it's
2 very very hard to follow you. We can barely hear
3 you. We are breaking up off and on. It's really
4 really hard to follow from outside. But if you
5 hear me, please ask again the question.

6 HEARING OFFICER GEFTER: Okay. We can
7 hear you fine, actually. Can you hear me?

8 MR. MICSA: Now I can.

9 HEARING OFFICER GEFTER: Okay.

10 PRESIDING MEMBER LAURIE: I would just
11 ask all parties to, in recognition of the fact
12 that we are teleconferencing, please use extra
13 effort to speak very closely into the microphones.
14 Our microphones do not allow for much flexibility
15 in that regard. And so I ask all of us to be
16 conscious of that fact.

17 And, at such time as our recorder is
18 unable to pick up statements, either present in
19 this room or on the telephone, we'll stop the
20 proceedings until appropriate corrections are
21 made.

22 Ms. Gefter.

23 HEARING OFFICER GEFTER: Is there anyone
24 else on the phone other than Mr. Unger and Mr.
25 Micsa? All right.

1 I'm going to give a little background
2 about this case, and then we're going to ask Mr.
3 Micsa to go forward. Can you hear me, Mr. Micsa?

4 MR. MICSA: Yes, I can hear now.

5 HEARING OFFICER GEFTER: Okay. I'm
6 going to, after I explain the purpose of this
7 prehearing conference, we'll ask you to go forward
8 because I know otherwise we won't get to your
9 topic until the end of the day, and I'm sure you
10 have other things to do. So, we'll get to you
11 first. I'll let you know, just a minute.

12 First, I want to indicate that on
13 November 30, 1999, ENRON filed an application for
14 certification to build the Pastoria Energy
15 Facility on the Tejon Ranch property about 30
16 miles south of Bakersfield.

17 Staff filed its preliminary staff
18 assessment on July 14th. Evidentiary hearings are
19 tentatively scheduled on September 18th here in
20 Sacramento, and September 19th in Bakersfield.

21 The parties also filed prehearing
22 conference statements in which they propose to
23 submit testimony by declaration.

24 As Commissioner Laurie previously
25 indicated testimony may be submitted by

1 declaration with a proviso that witnesses will be
2 subject to cross-examination and must be available
3 to answer questions if necessary.

4 Further, the Committee expects witnesses
5 to present direct testimony in person on topics of
6 air quality, public health, biological resources,
7 soil and water resources and land use.

8 We also direct the applicant to provide
9 live witnesses on project description, engineering
10 issues and transmission system issues.

11 And we may identify additional topics
12 that require the presentation of live testimony as
13 we proceed through today's discussion.

14 The purpose of today's prehearing
15 conference is to assess whether the parties are
16 ready for evidentiary hearings, to identify areas
17 of agreement or dispute, to discuss the procedures
18 that are necessary to conclude the certification
19 process.

20 In this regard, the Committee asks the
21 parties to present their respective positions on
22 the topic areas; to also discuss filing date for
23 staff's final staff assessment, the FSA, and other
24 evidentiary documents that may be required to be
25 filed, and to plan for briefing and comment

1 periods.

2 We also want to hear from the agency
3 representatives on the status of their respective
4 reviews of this project.

5 And at this point we'd ask Mr. Micsa
6 from the Cal-ISO to provide information to us on
7 the time that he expects to file the report for
8 Cal-ISO on whether he will be approving the
9 facility's report submitted by Pastoria.

10 Mr. Micsa, can you hear me?

11 MR. MICSA: Yes, I can.

12 HEARING OFFICER GEFTER: Okay.

13 DR. UNGER: Can I ask a question?

14 HEARING OFFICER GEFTER: Certainly.

15 DR. UNGER: I'm getting about three
16 words out of every four, and I'm following grossly
17 what's going on. If I were to hang up and call
18 back might I get a better connection?

19 MR. MICSA: I don't know, I'm hearing
20 the same thing, two out of three, or three out of
21 four, something like that. But maybe they can't,
22 at least on my part if you would like to start
23 with me, then I could actually disconnect later
24 on, so.

25 HEARING OFFICER GEFTER: That's fine,

1 Mr. Micsa, why don't you go ahead.

2 DR. UNGER: I can hear you.

3 HEARING OFFICER GEFTER: Mr. Unger, you
4 can hang up and call back if you want to.

5 DR. UNGER: Okay.

6 HEARING OFFICER GEFTER: Okay. Mr.
7 Micsa, go ahead.

8 MR. MICSA: Yes. We have sent the
9 response for the Pastoria facility, partial
10 facility studies. And from all the paperwork sent
11 to us, we have no reason to believe that we can't
12 work this project out. So, we gave them
13 preliminary approval, and we'll work together with
14 ENRON and -- to solve any outstanding issues that
15 we may have at this time.

16 Anything else?

17 HEARING OFFICER GEFTER: We are going to
18 evidentiary hearings on September 18th, and any
19 testimony that Cal-ISO intends to submit would be
20 due on September 8th. That's ten days before the
21 first day of hearings. Are you planning to submit
22 testimony, or is applicant sponsoring testimony
23 from Cal-ISO? Let me ask Mr. Thompson.

24 MR. MICSA: Do I have to submit the
25 testimony in by September 8th?

1 HEARING OFFICER GEFTER: That would be
2 the deadline for filing testimony. Mr. Thompson,
3 are you sponsoring testimony from Cal-ISO, or is
4 staff sponsoring testimony?

5 MR. RATLIFF: Pardon me. This is Dick
6 Ratliff speaking.

7 HEARING OFFICER GEFTER: Yes.

8 MR. RATLIFF: Typically we have, staff
9 has sponsored the ISO testimony, and I would
10 assume we will do so in this case. Although I
11 have not spoken with Mr. Micsa about his
12 testimony.

13 HEARING OFFICER GEFTER: The parties can
14 decide among themselves who's sponsoring Cal-ISO's
15 testimony. Mr. Micsa, the deadline would be
16 September 8th, that's ten days before the
17 beginning of hearings. Can you hear me?

18 MR. MICSA: I can barely hear you. The
19 only thing that I must do then by September 8th I
20 have to submit any testimony? Was that correct?

21 HEARING OFFICER GEFTER: Yes.

22 MR. MICSA: Okay. Now I can't hear you
23 at all --

24 HEARING OFFICER GEFTER: Okay, we're not
25 speaking. All right, that's fine. And I don't

1 believe there's any more -- we don't have any more
2 questions of you, so you can actually, you know,
3 leave the hearing at this point.

4 DR. UNGER: Mr. Arthur Unger joins.

5 HEARING OFFICER GEFTER: Okay. Good
6 bye, Mr. Micsa.

7 MR. MICSA: I'm going to take out, then,
8 thank you very much.

9 HEARING OFFICER GEFTER: Thank you very
10 much. Mr. Unger, are you on line now?

11 DR. UNGER: Yeah, I don't know if it's
12 better than before, but I heard your last sentence
13 completely.

14 HEARING OFFICER GEFTER: All right,
15 we'll try. We're going to go on.

16 We're going to turn to the topic areas.
17 We distributed a table for discussion that lists
18 all the topics. All the parties have copies
19 except for Mr. Unger, but it's the topic areas
20 that are in the PSA, the staff assessment.

21 We're going ask the parties to indicate
22 which topics are complete and uncontested; which
23 topics are not complete; and which topics will be
24 subject to adjudication.

25 And we'll ask the parties, including the

1 intervenors, to address each topic and identify
2 whether there are contested matters that they wish
3 to adjudicate.

4 Also, we'll ask you to indicate whether
5 the topics should be scheduled for September 18th
6 in Sacramento, or the 19th in Bakersfield.

7 We'll begin with the applicant. I also
8 want to indicate that for each topic the Committee
9 has reviewed the information that we have before
10 us so far, and there are some questions that we
11 have regarding some of the evidence. In some
12 cases there's just some confusing discussion in
13 the PSA or in the AFC, and in some places we need
14 additional testimony.

15 We're not going to take testimony today,
16 but we want to indicate to you what our questions
17 are, and we will give you an opportunity to file
18 supplemental written testimony by September 8th or
19 to provide a live witness at the hearings on that
20 topic.

21 And we're going to begin with air
22 quality and we'll ask the applicant to begin.

23 MR. THOMPSON: Thank you. We believe
24 that air quality is complete. We do not believe
25 that there are any contested issues. And would

1 suggest, although we have not seen the staff's
2 final staff assessment, we would suggest that the
3 area be heard on the 19th in Bakersfield, as air
4 quality is one of those issues that usually has
5 local interest.

6 HEARING OFFICER GEFTER: What is staff's
7 assessment on air quality? Are there any
8 contested issues?

9 MS. LEWIS: No, there's not. We agree
10 with the applicant. In this issue the work is
11 complete and there are no contested issues. And
12 we also agree that this should be heard in
13 Bakersfield.

14 HEARING OFFICER GEFTER: All right. Do
15 the intervenors have any comments on the air
16 quality topic? We're not taking evidence, but if
17 you have questions or comments, please go ahead.
18 Ms. Griffin.

19 MS. GRIFFIN: I don't, but I believe Dr.
20 Unger has some --

21 DR. UNGER: I have a comment.

22 HEARING OFFICER GEFTER: Okay, Mr.
23 Unger, please proceed.

24 DR. UNGER: Firstly, about the ammonia.
25 We seem besieged with ammonia in the southern San

1 Joaquin Valley. We read recently, and I'll submit
2 this, an article saying that if a car has
3 catalytic converters it makes a lot less NOx and
4 other noxious things. But it makes some ammonia.
5 Everybody here, you know, goes by car.

6 Secondly, a second ammonia source, we're
7 putting in tens of thousands of cows. We're
8 currently suing over a 28,000 cow dairy. But, for
9 example, the Chair of the Board of Supervisors in
10 Kings County said that even though suits made
11 people withdraw their suggestion for a 47,000 cow
12 dairy, they'd soon get another 47,000 cows
13 elsewhere. There are many big dairies coming into
14 Kern at the moment, and many others speculatively
15 thought of as they move out of the Chino Basin.

16 HEARING OFFICER GEFTER: Let me
17 interrupt and ask you, are you challenging the
18 ammonia levels that the air district is allowing
19 for this project?

20 DR. UNGER: My understanding is that the
21 slip will either be 5 ppm or 10 ppm, and that this
22 number was in dispute.

23 HEARING OFFICER GEFTER: All right. Is
24 that the case, staff, or has that dispute been
25 resolved?

1 MS. LEWIS: The dispute has been
2 resolved.

3 HEARING OFFICER GEFTER: All right. Mr.
4 Unger, that dispute has been resolved. And under
5 the final DOC that was issued by the air district,
6 the limit is 10 ppm for ammonia slip.

7 Are you challenging that? Because, if
8 so, then we can --

9 DR. UNGER: Let me repeat, as I heard
10 you, you said that it's been decided that the slip
11 will be 10 ppm of ammonia? Did I hear you
12 correctly?

13 HEARING OFFICER GEFTER: That's what the
14 air district has recommended, yes.

15 DR. UNGER: Okay, so the air district
16 says it's 10 ppm of ammonia; and the staff says
17 it's 10 ppm?

18 MS. LEWIS: Yes.

19 HEARING OFFICER GEFTER: No more than.
20 It's limited to 10 ppm. So the staff's final
21 staff assessment on air quality will be coming out
22 shortly.

23 DR. UNGER: Okay, so the staff has yet
24 to be heard from. The San Joaquin Valley Unified
25 Air Pollution Control District is okay on 10? Am

1 I correct?

2 HEARING OFFICER GEFTER: That's right.

3 DR. UNGER: Okay. I'm sorry to repeat,
4 but I don't hear clearly.

5 All right. A third source of ammonia
6 would be Pastoria Energy Facility. Ammonia, and I
7 am challenging that it should be as low as it can
8 possibly be. I don't have the expertise to know
9 that you could achieve 5, but I hope that staff
10 does, as I understood from the August 3rd hearing,
11 I think there is reason to think you can achieve 5
12 ppm.

13 Ammonia is a new topic that California
14 Air Resources Board is discussing as of this
15 October '99 paper, how to measure ammonia. And
16 it's difficult.

17 HEARING OFFICER GEFTER: Okay, Mr.
18 Unger?

19 DR. UNGER: -- article about the
20 catalytic converters --

21 HEARING OFFICER GEFTER: Mr. Unger, can
22 you hear me? I'm sorry to interrupt.

23 DR. UNGER: Yes.

24 HEARING OFFICER GEFTER: Okay. What
25 we're going to do is I suggest that you speak with

1 the staff and the applicant outside of this forum.
2 Perhaps they can answer some of your questions.
3 And if you wish to challenge any issues with
4 respect to air quality, we would request that you
5 file testimony as of September 8th, and you will
6 have the opportunity to cross-examine the
7 witnesses on air quality at the evidentiary
8 hearings.

9 And we intend to schedule air quality
10 for September 19th in Bakersfield.

11 So we're going to move on now to another
12 topic.

13 DR. UNGER: Thank you.

14 HEARING OFFICER GEFTER: Okay, and you
15 can certainly stay on the line and listen in, and
16 tell us the other topics that you have concerns
17 about.

18 I have a couple of questions for the
19 staff and the applicant to address. In your air
20 quality testimony the first question I have is
21 that whether there will be a witness to testify
22 about the EPA and CARB's concerns, whether we'll
23 have letters from EPA and CARB to indicate that
24 they are satisfied with the air district's final
25 DOC, or whether we'll have witnesses from those

1 agencies to tell us their views on the final DOC.

2 Staff, do you have anything at this
3 point to tell us about that, or will we -- we will
4 definitely have something from you by September
5 8th on that?

6 MS. LEWIS: Yes. We will have a witness
7 from the local air district, and a letter from
8 EPA.

9 HEARING OFFICER GEFTER: What about
10 CARB?

11 MS. LEWIS: I'm not sure about CARB
12 right now.

13 HEARING OFFICER GEFTER: We'd like to
14 see something from CARB, also.

15 MS. LEWIS: All right.

16 HEARING OFFICER GEFTER: The other
17 question I have, and this would be for the
18 applicant to provide this information, first of
19 all if Xonon technology is used, will a CO
20 catalyst be needed with that technology?

21 And the second question, with respect to
22 Xonon, is whether the offsets that are presented
23 right now for the SCR technology, will you also
24 need those same offsets, additional offsets, fewer
25 offsets, different offsets?

1 If you'd address some of those questions
2 for us. All right.

3 We'll go on to public health. I had
4 indicated also that we would want public health,
5 we're going to have live witnesses on public
6 health, also, because it's very much connected to
7 the air quality testimony. And I think some of
8 the testimony may overlap. So, for ease of the
9 record we'd like to have live witnesses.

10 Let's move on and hear from the
11 applicant whether there are issues pending on
12 public health, and what hearing date would you
13 propose for public health?

14 MR. THOMPSON: Thank you. Similar to
15 air quality, we believe that the area is complete;
16 that there are no contested issues. And while in
17 my prehearing conference statement I believe I put
18 it as the 18th, I'd be open to either day if
19 you're asking for a live witness.

20 Let me wait for staff to say if they
21 have a preference.

22 MS. LEWIS: It's no problem. We can
23 provide testimony in Bakersfield on public health.

24 HEARING OFFICER GEFTER: Do the
25 intervenors have any issues on public health that

1 you would like to see addressed at evidentiary
2 hearings? Ms. Griffin?

3 MS. GRIFFIN: What I read did not
4 reflect local concerns, valley fever being top of
5 the list. And that is usually -- they use a
6 microbiologist for that sort of thing.

7 And then I think that's on the mosquito
8 flyway, and encephalitis is endemic in Kern
9 County. And I think they use an entomologist for
10 that sort of thing.

11 And bubonic plague as an area, but it's
12 higher up, confined to the Tehachapis, but this
13 will have a stationary source of water down there,
14 that could bring it down.

15 Those are highly regionalized, but very
16 serious health concerns. Any one of them can go
17 beyond just the site and affect people in the
18 whole region.

19 So, I have concerns. I'm not, you know,
20 a health expert, but I --

21 HEARING OFFICER GEFTER: We'll ask the
22 applicant to be prepared to answer questions on
23 that, regarding that concern at evidentiary
24 hearings, and you'll have the opportunity to
25 cross-examine them.

1 DR. UNGER: Hello?

2 HEARING OFFICER GEFTER: Mr. Unger, yes.

3 Do you have questions on public health that you
4 would like to see addressed?

5 DR. UNGER: Yes. The valley fever
6 business, as I said in previous hearing, August
7 3rd, you should contact Kern County Health
8 Department. This is a fairly routine thing for
9 them. This land has not been cultivated. I don't
10 know if that's been said already, because I can't
11 hear. And this land very well could produce a
12 threat to the health of anybody who turns the dirt
13 over.

14 If they are people from out of the area,
15 or perhaps even in the area, they ought to have
16 skin tests first. They ought to be warned and
17 I'll bet the health department has protocol for
18 that.

19 HEARING OFFICER GEFTER: Mr. Unger,
20 again I'm sorry to interrupt, but again we're not
21 taking evidence today. If these are concerns that
22 you have, I would also again recommend that you
23 speak with the applicant and with our staff about
24 these concerns. And hopefully they will be able
25 to address your questions. And at the evidentiary

1 hearings you'll have an opportunity to cross-
2 examine them on these issues.

3 And Ms. Mendonca from the Public
4 Adviser's Office can help you get in touch with
5 the staff person and with the applicant who would
6 most likely be able to address your concerns. And
7 we will --

8 DR. UNGER: I got the first half of what
9 you said, not the second half.

10 HEARING OFFICER GEFTER: All right.
11 What I was recommending was that for you to work
12 with Ms. Mendonca from the Public Adviser's Office
13 to contact the staff person who would most likely
14 be able to address your concerns, and also with
15 the applicant's representative.

16 We're not going to continue on this
17 because this is more of a procedural kind of
18 event. And so the details that you're presenting
19 to us are more appropriately heard at the
20 evidentiary hearings.

21 DR. UNGER: I think I understand now.
22 This is more of a yes/no session today, and
23 evidence comes September 19th in Bakersfield?

24 HEARING OFFICER GEFTER: That's correct.
25 But please stay on.

1 DR. UNGER: Thank you.

2 HEARING OFFICER GEFTER: Okay. Staff.

3 MS. LEWIS: I just wanted to mention
4 that in the FSA we will be dealing with a
5 discussion of these diseases in response to Ms.
6 Griffin's questions that she submitted.

7 HEARING OFFICER GEFTER: Thank you. On
8 public health there is another question that I
9 would like the parties to address. And that is
10 regarding -- there was some comment in there, in
11 the PSA, regarding a maximum background of PM10
12 level, which was measured in 1991, which is ten
13 years ago. I wonder if there's more updated
14 information on that.

15 And based on that calculation we found a
16 hazard index of 3.4, which creates a background
17 health hazard. We're looking for some more
18 current information with respect to that evidence.

19 And then there's a -- I don't know if
20 the PSA is going to be revised in the FSA section,
21 but the last conclusions of staff it appears the
22 conclusions were not complete, the last paragraph
23 in the PSA section on public health. I wonder if
24 that's going to be revised based on the more
25 recent final determination of compliance that was

1 issued by the air district.

2 The other thing in the public health
3 section that is in the PSA, it doesn't really
4 specify what mitigation measures are appropriate
5 to the public health concerns. It just says that
6 the mitigation measures in the air quality section
7 are acceptable to staff.

8 It would be more helpful to actually
9 identify mitigation measures that are appropriate
10 to the public health section.

11 Can you hear me?

12 I'm going to move on to -- on project
13 description, which is way at the end of our list.
14 Actually it's unfortunately off the list, and
15 that's why I bring it up.

16 I have a lot of questions about project
17 description, and what I --

18 MR. RATLIFF: Before we leave public
19 health, --

20 HEARING OFFICER GEFTER: Yes.

21 MR. RATLIFF: -- I just want to try to
22 make sure I understood that last statement. Was
23 it the statement that staff did not make it clear
24 what the appropriate mitigation was, and you
25 wanted to make sure that was clarified in the

1 final FSA?

2 HEARING OFFICER GEFTER: Correct.

3 MR. RATLIFF: Okay.

4 HEARING OFFICER GEFTER: Right, just to
5 identify which mitigation measures were being
6 considered by staff in finding them acceptable.

7 MR. RATLIFF: Okay, thank you.

8 HEARING OFFICER GEFTER: Okay. Project
9 description. There are several issues which I
10 hope that applicant will walk us through during
11 the evidentiary hearings on -- and I expect that
12 we'll schedule project description first as our
13 first topic during evidentiary hearings.

14 I know that the AFC, when it was
15 originally filed, has been amended a few times
16 over the several months. And in the PSA, also I
17 believe it will probably be updated a bit by the
18 time we see the final staff assessment, it was
19 confusing as to how many acres were being
20 considered for the actual size of the site, the
21 laydown area.

22 There was some discussion about a
23 possible upgrade in the future, two more power
24 trains attached to this project. I'm not clear
25 where that information came from, but it appears

1 in the PSA. I'd like some clarification on that.

2 I'd like some information on how many
3 towers are going to be installed along the
4 transmission line, and what is the distance
5 between each tower.

6 The other thing that I think needs more
7 explanation, and I believe this appears under
8 waste, but it's regarding the zero liquid
9 discharge, the ZLD process. We need, I think, a
10 more thorough discussion of that process.

11 And I'll go on, I'll raise my issues
12 when we get to waste with respect to that process.
13 But hopefully during the project description
14 section of our testimony you'll describe the
15 process to us in some detail.

16 And on project description I expect
17 we'll have that topic on September 18th here in
18 Sacramento. Hopefully our phones will be working
19 and Mr. Unger will be able to hear us better.

20 And applicant is intending to present
21 witnesses on project description, is that correct?

22 MR. THOMPSON: Yes.

23 HEARING OFFICER GEFTER: And who will
24 the witnesses be?

25 MR. THOMPSON: It would be Mr. Wehn,

1 where appropriate, and Mr. Patch.

2 HEARING OFFICER GEFTER: All right.

3 Back to our list, moving on to worker safety.

4 Does the applicant have any issues with this
5 topic, do you expect to have issues?

6 MR. THOMPSON: We do not believe there
7 are any issues outstanding. We think the area is
8 complete. And in our prehearing conference we
9 suggested that it be heard on the 18th.

10 HEARING OFFICER GEFTER: Staff.

11 MS. LEWIS: Staff agrees with that.

12 HEARING OFFICER GEFTER: Ms. Griffin,
13 are you aware of any issues that you may raise
14 with respect to the worker safety topic?

15 MS. GRIFFIN: Yes, I do. In reading the
16 material -- there's a huge amount -- the issue of
17 light and glare. It's a lonely place down there,
18 and, of course, you want for the workers to be
19 safe, but in other sections the whole problem of
20 light and glare impact on wildlife. And I
21 couldn't see where the light and glare was
22 delineated, defined, or however you do this
23 scientifically. And safe enough for people, but
24 won't hurt wildlife and --

25 Now, I suppose this is something I could

1 go back to staff and maybe they could point things
2 out. But I thought that -- you can't imagine how
3 lonely it is down there, even though they've got
4 the Emmison Pump Plant, still it's dark.

5 HEARING OFFICER GEFTER: All right,
6 well, if that's an issue, again perhaps you'll
7 have an opportunity to speak with staff and the
8 applicant prior to evidentiary hearings. And if
9 it remains still a concern, please file that
10 information to us by September 8th, and you'll
11 have a chance to cross-examine the parties on
12 that.

13 MS. GRIFFIN: By September 8th, it
14 was --

15 HEARING OFFICER GEFTER: September 8th,
16 September --

17 MS. GRIFFIN: Yeah, the problem is I've
18 never seen it delineated. The people at the
19 Griffith Observatory in Los Angeles are very
20 concerned about this, too. Plus, you know, bird
21 watchers are concerned about this. The birds
22 don't know if it's day or night for their flights.

23 HEARING OFFICER GEFTER: I think that --

24 MS. GRIFFIN: There didn't seem to be
25 any information to judge from.

1 HEARING OFFICER GEFTER: Mr. Ratliff.

2 MR. RATLIFF: Excuse me, I'm sorry, Dick
3 Ratliff speaking. Staff generally addresses this
4 issue under visual resource impacts.

5 MS. GRIFFIN: Yeah, cross -- it's also
6 biological, too.

7 HEARING OFFICER GEFTER: Actually the
8 topic we're on right now is worker safety, --

9 MS. GRIFFIN: Yeah, well, the whole --

10 MR. RATLIFF: That's --

11 MS. GRIFFIN: -- the proper lighting
12 for --

13 MR. RATLIFF: There would be nothing on
14 discussion of this under worker safety. And
15 usually the mitigation measures that are required,
16 we typically require shielding in our other
17 projects, would be in the mitigation measures
18 under visual resources.

19 So we might look at the discussion and
20 the mitigation measures under visual resources to
21 see if it's been addressed.

22 HEARING OFFICER GEFTER: All right,
23 thank you. Mr. Unger, do you have any concerns
24 regarding worker safety, just that topic?

25 DR. UNGER: Worker safety might be where

1 we should put the valley fever and stuff, but
2 otherwise no, nothing else under worker safety.

3 HEARING OFFICER GEFTER: All right,
4 thank you. I have a question for the parties. In
5 the PSA there's a reference to an industrial
6 complex that is being approved for development
7 near the Grapevine area.

8 And that is apparently one of the fire
9 stations is being moved to that area. We want to
10 see more discussion either in written testimony or
11 have a witness tell us about that industrial
12 complex; the reason the fire station is moving
13 there; how far that is from the project site;
14 whether that will provide a faster response time;
15 what the applicant is doing with respect to the
16 fire stations in terms of enhancing their
17 equipment.

18 I believe that again the information
19 that was in the AFC and in the PSA may be a little
20 bit outdated, so we need current information.

21 Hopefully there will be a more complete
22 analysis in the FSA regarding cumulative impacts
23 with respect to the fire department and the
24 county.

25 MS. LEWIS: Yes, there is. If we're

1 going to have a live witness for this topic, we
2 might want to have it in Bakersfield so that the
3 fire department could attend that.

4 HEARING OFFICER GEFTER: That would also
5 fit in with socioeconomics, because again the same
6 issue comes up in socio. But let's leave that for
7 a moment. We'll say possibly September 19th for
8 that topic.

9 The next topic is transmission line
10 safety and nuisance. Applicant, do you have any
11 concerns or questions on that topic?

12 MR. THOMPSON: We do not. We believe
13 it's complete, uncontested and would suggest that
14 it be heard on the 18th.

15 HEARING OFFICER GEFTER: Staff.

16 MS. LEWIS: Yes, we agree.

17 HEARING OFFICER GEFTER: All right. Ms.
18 Griffin, do you have a question or concern
19 regarding transmission line safety and nuisance?

20 MS. GRIFFIN: Of course, for the birds,
21 but I'll put it over to the biological.

22 HEARING OFFICER GEFTER: And, Mr. Unger,
23 do you have concerns regarding transmission line
24 safety and nuisance?

25 DR. UNGER: Say again?

1 HEARING OFFICER GEFTER: It's a topic
2 called transmission line safety and nuisance.

3 DR. UNGER: I'll leave the condor
4 business to Ms. Griffin. It is a question that
5 needs to be discussed. There was something about
6 light and glare earlier, and I heard Ms. Griffin
7 discuss that. And I'm equally concerned about
8 that.

9 HEARING OFFICER GEFTER: Staff will
10 probably be addressing that topic under visual
11 resources. And also under biology, I believe.

12 DR. UNGER: Okay.

13 HEARING OFFICER GEFTER: So, we're going
14 to do transmission line safety and nuisance in
15 Sacramento on September 18th.

16 I have a question on TLSN, and that is
17 regarding staff's analysis in the PSA, if this
18 section could be updated, it's at page 87 where it
19 describes the EMF calculations.

20 And while recognizing that California
21 does not have EMF limits or regulations, other
22 states do have those regulations. And the
23 calculations that were presented in the PSA were
24 not put in context in terms of what the other
25 states' adopted regulations were; or whether the

1 estimated EMF calculations were compared with some
2 of the other regulations in other states.

3 So, I'd like an update date on that, and
4 ask both the applicant and staff to either present
5 supplemental testimony on that, or for that
6 information to be presented in the FSA. Thanks.

7 The next topic is hazmat, hazardous
8 materials. Applicant, are there any concerns or
9 issues with respect to that topic?

10 MR. THOMPSON: Again, we do not believe
11 that there are any outstanding issues. We think
12 it's complete. And we would suggest that that be
13 heard on the 18th.

14 HEARING OFFICER GEFTER: Staff.

15 MS. LEWIS: We agree with that.

16 HEARING OFFICER GEFTER: Ms. Griffin, on
17 hazardous materials, do you have any concerns with
18 respect to that topic?

19 MS. GRIFFIN: Only that I don't like
20 them being brought into that spot, you know, where
21 they've never been brought before. Some animal
22 will get hurt, you know, with just their presence
23 there. But, no, I don't have any specific
24 concerns.

25 HEARING OFFICER GEFTER: Mr. Unger, do

1 you have concerns with respect to the hazardous
2 materials topic?

3 DR. UNGER: With respect to the
4 hazardous what?

5 HEARING OFFICER GEFTER: Hazardous
6 materials. The hazardous materials that may be
7 used on the project site, or transported to the
8 project site.

9 DR. UNGER: No.

10 HEARING OFFICER GEFTER: All right.
11 Hazardous materials then will be heard on
12 September 18th.

13 There is, again, a little bit of
14 confusion with respect to the testimony that I've
15 received so far in the PSA and the AFC. So I
16 would ask the parties to provide some
17 clarification.

18 In the PSA there's a statement which
19 says that the workers are not afforded the same
20 level of protection that is acceptable for general
21 public exposure. And I wasn't clear whether this
22 is a staff opinion, whether this is a professional
23 opinion, or where that idea came from. And so if
24 that can be clarified. I don't know if it comes
25 from the AFC or is a statement in the PSA. And is

1 it based in the law, is it based on CalOSHA
2 regulations. Where does that come from.

3 And then the condition HAZ-3, requires
4 the development of a safety management plan for
5 delivering aqueous ammonia, even though it's not
6 required by the regulations, Title 8 regulations.

7 Does that also -- do the regulations
8 apply to anhydrous ammonia delivery. What kind
9 of -- it's a bit confusing to me. I believe that
10 perhaps the testimony could specify to us what is
11 expected to be incorporated in the safety
12 management plan for delivery of aqueous ammonia.

13 And also there needs to be more of a
14 description of the aqueous ammonia storage tank,
15 recovery basin, delivery system, the size of the
16 tank, the frequency of delivery. These were all
17 issues that were not addressed in the PSA.
18 Perhaps they are addressed in the AFC. We'd like
19 to see more information in the FSA on that topic,
20 and would ask the applicant perhaps to describe
21 this under the project description topic if you
22 aren't going to present a witness on hazmat. Or
23 in your hazmat filed testimony you can answer
24 these questions for us.

25 But those are some issues that were not

1 addressed to my satisfaction in the documents that
2 were submitted.

3 Also, again, staff's appendix A, table
4 1, which shows us the levels for ammonia exposure,
5 there is reliance on very out -- I don't know if
6 they're outdated, but they're certainly very old
7 studies. We have reference to a 1943 study as one
8 of the foundations for the table which shows us
9 what levels of ammonia exposure are acceptable.
10 And I would like to see more recent sources for
11 staff's findings.

12 All right. We'll go on to this topic of
13 waste and does the applicant have any issues or
14 concerns with that?

15 MR. THOMPSON: No, we do not. We
16 believe the area's complete. And we believe it's
17 uncontested, and would suggest that it be
18 scheduled for the 18th.

19 HEARING OFFICER GEFTER: Staff.

20 MS. LEWIS: Yes, we concur with that.

21 HEARING OFFICER GEFTER: Ms. Griffin.

22 MS. GRIFFIN: I couldn't find any
23 numbers on the impacts to Kern County's landfills.
24 Now, I imagine they'll pay the \$29 per ton, you
25 know, when they haul the construction materials or

1 garbage bags or whatever is there, which is a
2 break-even number.

3 But it would be interesting to know
4 which, Arven Bena, which landfill they're going to
5 be using and how much and what would be the
6 impact, how many years it's going to shave off
7 before any particular site is closed at Arven
8 Taft, or the huge one at Bena.

9 I just didn't see any local numbers.
10 And some sort of delineation about how much extra
11 construction. I saw things about, you know, not
12 leaving construction material around for somebody
13 to trip over, worker safety stuff. But just not
14 the mass amount, if any.

15 HEARING OFFICER GEFTER: Good question,
16 and we'll ask the applicant to provide that
17 information in supplemental testimony to be filed
18 by September 8th.

19 Mr. Unger, do you have any concerns
20 regarding the topic of waste management? Mr.
21 Unger, are you still on the line?

22 DR. UNGER: Yes. The question is do I
23 have any questions about waste management?

24 HEARING OFFICER GEFTER: Right.

25 DR. UNGER: We usually go for recycling

1 and reuse, but we may put that in, but that's
2 about it.

3 HEARING OFFICER GEFTER: All right.
4 We're going to conduct that particular hearing on
5 September 18th in Sacramento, and --

6 DR. UNGER: Is that 18 or 19?

7 HEARING OFFICER GEFTER: That will be
8 the 18th. It will be in Sacramento, and it will
9 be teleconferenced like this that we are doing
10 today. We hope you will be able to hear us better
11 next time.

12 I have a question, again I'll ask the
13 applicant to clarify the zero discharge process.
14 There was some discussion of the solids salt cake
15 product from the wastewaters which would then be
16 hopefully a nonhazardous waste material that would
17 be delivered to the landfills.

18 And there was some question about
19 whether that particular salt cake product would
20 always be a nonhazardous product, and needed to be
21 tested, and questions about that whole process.

22 And then it is also indicated that as a
23 nonhazardous waste product it could be used as a
24 soil amendment or delivered to a waste facility.
25 And we again need some amplification in the record

1 on that process and the disposal of that salt
2 cake.

3 Also the question about proposed
4 condition WASTE-2. I wanted to know whether this
5 is a standard condition, staff? Mr. Ratliff, I'm
6 sorry, I don't know if you heard me. I had a
7 question about condition WASTE-2, the proposed
8 condition, whether this is a standard language?

9 MR. RATLIFF: I don't have it before me.
10 I'm not familiar --

11 HEARING OFFICER GEFTER: That's again in
12 the FSA or in other supplemental testimony. The
13 purpose of this condition could be explained, and
14 you could indicate to us whether it's standard
15 language or whether it's specific to this case.

16 MR. RATLIFF: We'll take that.

17 HEARING OFFICER GEFTER: All right, the
18 next topic is land use. We're going to schedule
19 that topic in Bakersfield September 19th. There
20 are several issues still pending on land use. The
21 applicant can address some of that right now for
22 us, tell us the timelines that you're looking at
23 with respect to cancellation of the Williamson
24 Act.

25 MR. WEHN: This is Sam Wehn. The

1 planning commission is going to meet on September
2 7th, and the board of supervisors will be meeting
3 on September 12th to vote on the cancellation.

4 PRESIDING MEMBER LAURIE: What are they
5 using for an environmental document?

6 MR. WEHN: I believe they're taking an
7 exception, and I believe, I'm not one hundred
8 percent sure, but I think they're using the CEQA
9 exemption. And, in essence, using the final
10 decision from the CEC as their basis.

11 So, in other words, they vote, they
12 cancel. If the CEC decision comes out favorable,
13 then they use that as the document.

14 MS. GRIFFIN: That's not correct.

15 HEARING OFFICER GEFTER: Ms. Griffin,
16 you disagree with that?

17 MS. GRIFFIN: That information is not
18 correct.

19 HEARING OFFICER GEFTER: What is your
20 understanding?

21 MS. GRIFFIN: Thursday the planning
22 commission met to consider the cancellation of the
23 Williamson Act contract, and only three
24 commissioners showed up. There's five
25 commissioners in all, and three showed up, but one

1 of them had a conflict of interest because he
2 worked for Tejon Ranch.

3 And so there wasn't a quorum. So the
4 planning commission will meet on -- they meet the
5 second and fourth Tuesdays in Kern County. So
6 that will be September 14th, and I don't know yet
7 when the Kern County Board of Supervisors will
8 meet on the issue.

9 Now, the morning of September 14th
10 they'll have the tentative parcel tract map
11 meeting in the director's room of the planning
12 department. I called her and she said she was
13 going to go, somehow word it so it would be
14 contingent on a cancellation. She wasn't going to
15 change the date of her meeting. And Mrs. Lorelei
16 Albiot's in charge of that.

17 MR. RATLIFF: Commissioner --

18 HEARING OFFICER GEFTER: Okay. Mr.
19 Ratliff.

20 MR. RATLIFF: Commissioner, if I may
21 answer what I understood your question to be,
22 which is will there be a CEQA document before the
23 board of supervisors when they take action, the
24 answer is no. They are using an exemption in the
25 CEQA guidelines and in the statute, itself, for

1 actions which are preliminary to a decision by the
2 Energy Commission, which the Energy Commission
3 would then be studying in its comprehensive
4 document. And that is the basis for --

5 PRESIDING MEMBER LAURIE: That's fine,
6 Mr. Ratliff, thank you.

7 MR. WEHN: Ms. Gefter, with regard to
8 the scheduling of the planning commission and the
9 board of supervisors, I only presented to you what
10 the director of the planning department expressed
11 to me would be the new schedule.

12 If things have changed between when that
13 happened and today, then there will be new dates.
14 But, I'm just --

15 HEARING OFFICER GEFTER: Yeah, all
16 right, so --

17 MS. GRIFFIN: Yeah, I talked to her on
18 Friday. Maybe they changed, you know, --

19 HEARING OFFICER GEFTER: Okay, thank
20 you. What I'll ask the parties to do is by
21 September 8th, again, submit to us what your
22 understanding of the schedule is, and the
23 different steps that are still required in order
24 to complete the process.

25 PRESIDING MEMBER LAURIE: And include in

1 your testimony, please, any staff reports that
2 have been published by that date.

3 MS. GRIFFIN: You want the Kern County
4 Staff reports?

5 PRESIDING MEMBER LAURIE: Yes, the staff
6 report that is submitted to the Commission and the
7 board on the cancellation, and the map.

8 MS. GRIFFIN: Because the staff report
9 on the tentative tract map hasn't been -- she's
10 writing it now.

11 PRESIDING MEMBER LAURIE: Okay, well,
12 I --

13 MS. GRIFFIN: I haven't seen -- nobody's
14 seen it.

15 PRESIDING MEMBER LAURIE: What I asked
16 for is, as part of the testimony to be submitted
17 on the 8th, any staff reports that are in
18 existence on that date relating to any
19 discretionary approval by the County.

20 HEARING OFFICER GEFTER: Mr. Unger, do
21 you have any questions on land use?
22 is that correct?

23 DR. UNGER: On land use?

24 HEARING OFFICER GEFTER: Correct.

25 DR. UNGER: Besides that the project,

1 itself, is unnecessary if we conserve energy, I
2 have no questions on land use.

3 HEARING OFFICER GEFTER: All right,
4 thank you. Are you able to hear us at all during
5 this process?

6 DR. UNGER: Yes, I can hear male voices,
7 especially I suspect Mr. Thompson. I can hear at
8 least three-quarters of what Ms. Griffin says, and
9 I can hear at least half of what you say.

10 HEARING OFFICER GEFTER: Well, all
11 right. You know, there will be a written
12 transcript --

13 DR. UNGER: I don't really follow what
14 you're saying, I don't get quite enough.

15 HEARING OFFICER GEFTER: Okay. There
16 will be a written transcript of this proceeding,
17 and you'll be able to access that on line shortly.

18 DR. UNGER: Thank you.

19 HEARING OFFICER GEFTER: All right. I
20 have questions for the parties on the land use
21 description in both the AFC and the PSA.

22 One thing that's rather confusing and
23 I'd like some clarification is I understand the
24 petition for cancellation is for 20 acres. At
25 some point in the PSA it refers to 25 acres. And

1 at another point is some discussion about two
2 parcels that are being considered for
3 cancellation, portions of each parcel then adding
4 up to 20 acres. We need some clarification on
5 that.

6 In addition, with respect to the
7 Subdivision Map Act, it's not clear, at least from
8 the testimony, whether that approval by the County
9 would then be included in the site development,
10 which is part of proposed condition one, or
11 whether it's a separate approval that is needed.

12 So we need some clarification as to all
13 the different steps that need to be taken before a
14 site development plan can be approved by the
15 County and by the Commission.

16 Mr. Ratliff, are you following this?

17 MR. RATLIFF: Yes, I am.

18 HEARING OFFICER GEFTER: You look very
19 quizzical.

20 MR. RATLIFF: No, I'm following it, and
21 I had assumed that in the area of land use we
22 would be providing a live witness that you could
23 address these questions to. I think I know the
24 answer to the numbers issue, but it probably isn't
25 for me to answer that.

1 HEARING OFFICER GEFTER: All right.

2 MR. RATLIFF: But we would have -- this
3 was an area where we intended to have live
4 testimony; and I would assume that the County
5 would have someone, as well, to answer the
6 questions.

7 HEARING OFFICER GEFTER: And, also we
8 would like information, again, there is some
9 testimony in the PSA which states that Kern County
10 would normally require a conditional use permit
11 for the power plant once you have cancellation of
12 the Williamson Act on that site. And with respect
13 to the zoning law you would require a conditional
14 use permit.

15 And, again, is there a CEQA document or
16 some other document that the County's relying on?
17 And would that be the same situation where they
18 would rely on the final decision?

19 MR. RATLIFF: They're relying on the
20 Energy Commission's environmental document to be
21 prepared after they have taken these actions which
22 are preliminary to this action, the same CEQA
23 exemption that we discussed before.

24 HEARING OFFICER GEFTER: All right.

25 PRESIDING MEMBER LAURIE: Well, let me

1 follow up on Ms. Gefter's question. Does this
2 project require a special or conditional use
3 permit, Mr. Thompson?

4 MR. THOMPSON: We don't believe so.

5 HEARING OFFICER GEFTER: That's really
6 why we're asking the question. There was some
7 comment in the PSA which indicated that it would
8 otherwise require a conditional use permit, but
9 for the application for certification process.
10 We'd like information on that.

11 PRESIDING MEMBER LAURIE: Well, let me
12 put it this way. It's my understanding that no
13 general plan -- there need not be any general plan
14 amendment or rezone. Is my understanding correct?

15 MR. RATLIFF: Yes. My understanding is
16 that if the land in question were not -- if the
17 Williamson Act contracts were not revoked, a
18 variance would be required for the parcel map to
19 fit in the change to the parcels.

20 But if the County, in fact, does revoke
21 the contracts, no variance would be required.
22 And --

23 PRESIDING MEMBER LAURIE: Okay, well,
24 when a contract is canceled, at the same time the
25 County authorizes an alternative use, under

1 Williamson Act law, the question is, is the
2 alternative use a use permitted under the general
3 plan and its own designations that the property
4 currently has.

5 MR. RATLIFF: As I understand it, yes.

6 PRESIDING MEMBER LAURIE: Okay. And so
7 we would ask -- in other words, we want to make
8 LORS compliance, --

9 MR. RATLIFF: Um-hum.

10 PRESIDING MEMBER LAURIE: -- and we're
11 not going to make any conditional LORS finding.
12 So, we need to have the understanding of whether
13 or not there's any additional general plan
14 amendments, rezones or conditional use permits or
15 other discretionary requirement. That's nothing
16 new.

17 MR. RATLIFF: And it's my understanding
18 that the variance is being included among the
19 actions that may be taken simply because they
20 don't know whether the parcel map will be approved
21 prior to the nullification of the contracts, the
22 Williamson Act contracts.

23 HEARING OFFICER GEFTER: Okay, well, I
24 refer you, in the PSA, at page 133 is where some
25 of this is discussed, and that's why there was

1 some confusion with respect to which permits would
2 be required and whether or not it would be a
3 conditional use permit.

4 The language in the PSA says Kern would
5 normally require a conditional use permit for this
6 type of project, and then goes on. So, if we
7 could have some clarification during evidentiary
8 hearings that would be very helpful.

9 DR. UNGER: Ms. Gefter?

10 HEARING OFFICER GEFTER: Yes, Mr. Unger.

11 DR. UNGER: From the fraction of this I
12 can understand, do you have the notice of the
13 public hearing of Thursday, September 14th,
14 designated by the Hearing Officer on the tentative
15 parcel map? Is that pertinent, it sounds like it
16 is, to the stuff you're talking about?

17 HEARING OFFICER GEFTER: Okay, the
18 Public Adviser has a copy of it --

19 DR. UNGER: Okay.

20 HEARING OFFICER GEFTER: -- and she's
21 circulating it to the parties.

22 DR. UNGER: Thank you.

23 HEARING OFFICER GEFTER: And we will get
24 a copy of it and put it in our docket, and it will
25 get --

1 DR. UNGER: Yeah, I have a copy.

2 HEARING OFFICER GEFTER: -- the
3 Committees will see it. Okay, thank you.

4 And the September 14th hearing you're
5 referring to, is that the planning commission?

6 MS. GRIFFIN: At 10:00 in the morning
7 Mrs. Lorelei Albiot will be having a directors
8 meeting at the planning department on M Street
9 about the parcel map, tentative whatever that
10 stuff is. And then the County's going to rubber-
11 stamp this, which I wish they wouldn't.

12 But she will make that contingent upon
13 the Williamson Act cancellation. Now, this is
14 what she told me Friday morning.

15 Then at 7:00 on Truxton Avenue, the Kern
16 County Planning Commission will meet on the
17 14th --

18 HEARING OFFICER GEFTER: All right,
19 well, you know, we went over this before. And by
20 the time we get to evidentiary hearings some of
21 these meetings will already have occurred, and
22 we'll ask the parties to update us on what the
23 planning commission has decided. And we'll get a
24 copy of this notice and distribute it to
25 everybody. Thank you.

1 We'll move on now to the traffic and
2 transportation topic. I'd ask the applicant
3 whether there are any pending matters on that
4 topic.

5 MR. THOMPSON: I don't believe there are
6 any pending matters. We believe it is complete
7 and uncontested. And in my prehearing conference
8 I suggested it for the 19th, but I guess I would
9 ask the parties to consider the 18th if there are
10 no outstanding issues.

11 HEARING OFFICER GEFTER: Does staff have
12 any idea of whether there are going to be
13 outstanding issues? How is the FSA coming on that
14 topic?

15 MS. LEWIS: No, the FSA will be
16 complete, and there's no contested issues. And
17 the 18th is fine.

18 HEARING OFFICER GEFTER: Ms. Griffin, do
19 you have any concerns regarding traffic and
20 transportation?

21 MS. GRIFFIN: I could ask the staff --
22 they're very vague on what the company will be
23 responsible for if the, you know, for the beat-up
24 roads you have particularly during construction
25 time with heavier trucks, in repairing and keeping

1 the roads, which aren't in very good condition
2 anyway out there. Could make a bad situation
3 worse.

4 HEARING OFFICER GEFTER: Okay, that
5 would be, I expect, considered in the FSA
6 discussion.

7 All right, Mr. Unger, do you have any
8 concerns with respect to traffic and
9 transportation related to this project?

10 DR. UNGER: I'd like to have more
11 description of the bridge over Pastoria Creek, and
12 how it won't bother the creek.

13 HEARING OFFICER GEFTER: We'll ask the
14 applicant to address that issue.

15 I have several questions, again, from
16 reading the PSA and the AFC. I believe these
17 questions hopefully will be able to be addressed
18 either in written testimony or perhaps by a live
19 witness at the hearing.

20 There's some language in the PSA which
21 talks about a lighting system that has to be
22 installed in each stack as required by the FAA.
23 But the language isn't requiring it in the PSA.
24 So, again, it needs to be strengthened or
25 clarified.

1 MR. RATLIFF: I'm sorry. Dick Ratliff
2 speaking. What was the thing that needed
3 clarification?

4 HEARING OFFICER GEFTER: Lighting on the
5 stacks in conformance with the FAA requirements.
6 The language in the PSA was rather vague, and it
7 doesn't say that they would be installing the
8 lighting.

9 However, I think a condition requires
10 the lighting. But I'd like to see that filled
11 out, the information filled out.

12 The other question I had was there's an
13 access road that applicant intends to build, a .85
14 mile access road from the Edmondson pumping plant
15 to the project. Is there an environmental impact
16 review of that particular road? Is that included
17 in the AFC? Perhaps you could lead us to that
18 discussion.

19 It also indicates that the Edmondson
20 pumping plant road is a private road. We don't
21 have an indication as to who owns that road. And
22 in the conditions there is a proposed condition
23 that the road be -- at the conclusion of
24 construction the road be put back to the condition
25 it was originally, because there's going to be a

1 lot of wear and tear from heavy truck traffic.

2 And it indicates that that work would be
3 done in conjunction with the County. And it's not
4 clear whether the County has jurisdiction over the
5 road, so if you could clear that up for us and
6 indicate who's responsible for taking care of that
7 road, and how the County gets involved.

8 There's also proposed condition TRANS-4.
9 There's a construction traffic control plan that
10 is going to be proposed to the County. And it's
11 not really clear -- I think it's not clear what
12 the specifics would be. It just makes some
13 suggestions about what would be included in that
14 plan.

15 So, again, we need some clarification of
16 the purpose of the plan, who reviews it, who
17 approves it, and what the contingencies are as to
18 whether -- which particular requirements are going
19 to be applied.

20 I think it's just a question of firming
21 up the language in the proposed condition. It
22 also indicates that we get Kern County's comments
23 on the plan, but I believe we would probably need
24 Kern County's approval of the plan. So, again,
25 it's a question of just firming up the language.

1 Also with respect to the proposed
2 industrial complex, the Tejon Industrial Complex
3 near Raval Road. There's no indication as to the
4 timeline for development of that project. And
5 there is some discussion as to perhaps an overlap
6 when there is construction traffic for the
7 Pastoria project, and when there's construction
8 traffic for the industrial site.

9 And we need some sense of how they may
10 overlap, whether there will be cumulative impacts
11 at that point in time, and more discussion for us
12 to fill in the gaps.

13 The next topic is noise. Does the
14 applicant anticipate any concern with that topic?

15 MR. THOMPSON: We do not believe that we
16 have any contested issues. We believe it's
17 complete, and would suggest on the 18th.

18 Also, did you designate traffic and
19 transportation on the 18th?

20 HEARING OFFICER GEFTER: On the 18th.

21 MR. THOMPSON: Thank you very much.
22 Again, with regard to noise, we do not believe we
23 have any outstanding issues.

24 HEARING OFFICER GEFTER: Staff.

25 MS. LEWIS: The staff does not have any

1 outstanding issues, and the 18th is fine for that.

2 HEARING OFFICER GEFTER: Ms. Griffin
3 stepped out, but, Lois, do you have any questions
4 about the noise topic?

5 MS. WATSON: No.

6 HEARING OFFICER GEFTER: Mr. Unger, do
7 you have any questions about the topic of noise?

8 DR. UNGER: About noise --

9 HEARING OFFICER GEFTER: Noise, with
10 respect to the power plant.

11 DR. UNGER: No.

12 HEARING OFFICER GEFTER: All right.

13 PRESIDING MEMBER LAURIE: Ladies and
14 gentlemen, we're going to take a ten-minute break.
15 We'll see you back here at 3:30.

16 (Brief recess.)

17 HEARING OFFICER GEFTER: We were on the
18 topic of noise. One of the things in the PSA
19 there was a reference to table 2 at page 172, and
20 it was not in the text. And I believe that was a
21 table that referred to Kern County noise
22 standards. So hopefully that would be in the FSA,
23 or if you could refer us to it in the AFC, a copy
24 of that.

25 Another thing where it is a bit

1 confusing, there is some discussion about the
2 gravel operation which is a neighbor to the
3 Pastoria project site. And that operations there
4 produce about 80-plus dba's, decibels of noise at
5 the boundary between the gravel operation and the
6 Pastoria site.

7 And it's not clear to me when I read the
8 record or the evidence so far as to why the -- at
9 the boundary it says that the Pastoria project can
10 exceed the 65 dba's because at the gravel
11 operation they are producing 80 dba's. And I'm
12 not sure whether we're talking about the
13 cumulative impact analysis there, whether we're
14 talking about a noise element standard, or why it
15 is that the noise from the Pastoria project
16 doesn't have to be controlled to 65 dba at the
17 boundary with the gravel operation. I need an
18 explanation on that topic.

19 Then the other question with respect to
20 steam blow, which process will the project
21 actually employ. It's left sort of ambiguous
22 whether Pastoria's going to employ a traditional
23 or standard silencer, or whether you're going to
24 use that quiet blow approach.

25 And I don't know when the decision will

1 be made, whether it's going to be made in facility
2 design period of time, or whether you've already
3 determined how you're going to go forward with
4 that.

5 Also, with respect to the noise
6 complaint, I think there's proposed condition
7 NOISE-1. I would recommend that we also include a
8 requirement that the notice that is sent out to
9 near residences and businesses be in Spanish.

10 I understand that there are Spanish
11 residents, Spanish-speaking residents at the
12 nearest sensitive receptors, which, I guess, are
13 four or five miles away. But if you're going to
14 be sending out notices, I would include those
15 residences, and also translate the notice in
16 Spanish.

17 I don't know if there's any objection to
18 that, but we can talk about that. That topic will
19 be heard on September 18th, and I don't believe
20 we're going to need witnesses for that, other
21 than, you know, the declarations and any
22 supplemental testimony in response to these
23 questions.

24 With respect to visual resources, does
25 the applicant find any additional issues on that

1 topic? Visual resources.

2 MR. THOMPSON: I don't believe that we
3 have any contested issues. And I think that we
4 are now in agreement with the staff, and hopefully
5 the staff would agree with us, that the area is
6 complete and there are no outstanding issues.

7 I recognize that it's an area of some
8 local concern, and would suggest the 19th.

9 HEARING OFFICER GEFTER: We were
10 proposing actually the 18th on that. It depends
11 on whether there are contested issues.

12 Staff, have the issues been resolved?

13 MS. LEWIS: All the issues have been
14 resolved.

15 HEARING OFFICER GEFTER: And, Ms.
16 Griffin, do you have concerns that you'd like
17 addressed with respect to visual resources?

18 MS. GRIFFIN: Well, I got some free
19 curb-side advice that we put the light and glare
20 under that?

21 HEARING OFFICER GEFTER: Yes.

22 MS. GRIFFIN: The visual. Now, is
23 visual also aesthetics?

24 PRESIDING MEMBER LAURIE: Yes.

25 HEARING OFFICER GEFTER: Yes.

1 PRESIDING MEMBER LAURIE: Well, I concur
2 that visual and aesthetics is often a matter of
3 local concern, and we'll schedule it for the 19th.

4 HEARING OFFICER GEFTER: All right.

5 MS. GRIFFIN: Thank you.

6 MR. RATLIFF: That means we need a live
7 witness, so --

8 PRESIDING MEMBER LAURIE: No. But it
9 will be heard that day, so any public present will
10 be able to hear the discussion and offer comment
11 on the discussion at that time. We're not
12 ordering witnesses.

13 The point being it will be discussed
14 locally. It can be done through declaration, but
15 it will be discussed locally.

16 HEARING OFFICER GEFTER: With respect to
17 visual, it was not clear from the PSA section with
18 respect to the fuel gas pipeline. The discussion
19 made it appear that the pipeline, itself, was
20 going to be above ground, and could be seen. And
21 then there was some language regarding the marker
22 signs. And it was unclear whether the analysis
23 was based on the marker signs of the fuel
24 pipeline, or whether it was based on the pipeline.

25 As I understand the pipeline is going to

1 be underground. So, perhaps that could be cleared
2 up from the --

3 MS. LEWIS: Do you have a page number on
4 that?

5 HEARING OFFICER GEFTER: Yeah, page 207.

6 MS. LEWIS: Thank you.

7 HEARING OFFICER GEFTER: In the PSA.

8 MS. WATSON: Excuse me.

9 HEARING OFFICER GEFTER: Yes.

10 MS. WATSON: I don't know whether this
11 is my time to express this kind of concern, but
12 how high and -- would smoke stacks be? This
13 happens to be a prime, it's a very open country,
14 and it's a lot of people enjoy the view. And it
15 is a good place for photographers.

16 Are we going to have smoke stacks
17 sticking up? This is just a personal question.

18 HEARING OFFICER GEFTER: That's actually
19 a good question, because it's discussed in this
20 section, --

21 MS. WATSON: Okay.

22 HEARING OFFICER GEFTER: -- regarding
23 visual resources. They talk about the stacks and
24 how tall they are, and also the plumes that are
25 emitted. And that was one of the concerns of

1 staff's analysis. Hopefully that will be
2 addressed in the final staff assessment.

3 MS. LEWIS: Yes, it is.

4 MS. WATSON: Thank you.

5 HEARING OFFICER GEFTER: There's also a
6 visual condition 3, talks about notifying
7 residences of the -- well, actually it doesn't
8 necessarily talk about how the residents are going
9 to find out about a lighting complaint procedure.

10 So perhaps language could be added to
11 the proposed condition describing notification to
12 the residents and businesses in the area as to if
13 they have a complaint, how do they express their
14 complaint, who do they contact, that sort of
15 thing. And that's at page 220 of the PSA.

16 All right, as Commissioner Laurie
17 indicated, that will be in Bakersfield in the
18 hearing on visual resources.

19 On cultural resources, are there any
20 contested issues or concerns? Applicant,
21 cultural?

22 MR. THOMPSON: Applicant believes that
23 this area is complete and uncontested. And I
24 guess we would prefer to have it on the 18th, if
25 possible.

1 HEARING OFFICER GEFTER: Staff.

2 MS. LEWIS: Yes, we concur with that.

3 HEARING OFFICER GEFTER: Ms. Griffin,
4 are there any concerns that you'd like to raise
5 regarding cultural resources?

6 MS. GRIFFIN: Only in there are
7 artifacts of international importance, and if I
8 can, I want to get a member of the Chumash Tribe
9 or the Tejon Indian Tribe in to have a look at
10 this.

11 I'm not an anthropologist, I'm not an
12 expert in this area, but that is where they lived.
13 And I think the area stands a chance of being very
14 rich in archeological resources. And apparently
15 Native Americans have a great concern about
16 finding bodies of their ancestors, and they don't
17 want them to be specimens shipped off to the
18 Smithsonian or something.

19 But I just, once again I didn't see a
20 local element to this. And it's the Chumash and
21 the Tejon, that's where they lived.

22 HEARING OFFICER GEFTER: Applicant
23 has --

24 MS. GRIFFIN: Their villages.

25 HEARING OFFICER GEFTER: Right. I

1 understand. And, in fact, there's a description
2 of that in both the AFC and in the PSA in terms of
3 the studies that the consultants did. But perhaps
4 applicant could provide some response to Ms.
5 Griffin's concerns. And perhaps you can discuss
6 that with her at the conclusion of today's event.

7 And were you suggesting, Ms. Griffin,
8 that you wanted to bring a representative from --
9 a tribal representative to the hearings to talk
10 about their concerns? Is that what you were
11 proposing?

12 MS. GRIFFIN: Sure.

13 HEARING OFFICER GEFTER: Or do you --

14 MS. GRIFFIN: Sure. I have some
15 concerns, but I'm not -- you know, I'm not a
16 Native American.

17 HEARING OFFICER GEFTER: Did you want to
18 bring somebody in --

19 MS. GRIFFIN: I will try.

20 HEARING OFFICER GEFTER: -- to a
21 hearing, or were you talking about --

22 MS. GRIFFIN: An actual descendent of
23 the tribes. They're around, they're very small,
24 but they're around. And, of course, they have day
25 jobs, too.

1 HEARING OFFICER GEFTER: Well, we're you
2 concerned that you have somebody testify, or were
3 you concerned that the person be allowed to
4 transverse the site?

5 MS. GRIFFIN: Well, have someone testify
6 about their concerns, who I can't speak for, but
7 as a cultural resource I have concerns about
8 theft, poaching, safety, protection, however you
9 want to put it, that I don't think are addressed
10 in the documents I've seen.

11 HEARING OFFICER GEFTER: All right.
12 What would be helpful to us is for you to provide
13 information to us by September 8th as to what you
14 would like to see or like to hear about.

15 MS. GRIFFIN: Yeah, I'll try to --

16 HEARING OFFICER GEFTER: And if you are
17 going to, you know, present a witness to testify
18 about their concerns, --

19 MS. GRIFFIN: Yeah, the Chumash are
20 mostly over in Santa Barbara now, but they come
21 over --

22 HEARING OFFICER GEFTER: Right.

23 MS. GRIFFIN: -- to Kern County once in
24 awhile.

25 HEARING OFFICER GEFTER: Well, if you

1 can get that together for us, and when you submit
2 any other testimony that you're proposing to
3 submit on September 8th, include your concerns
4 about cultural resources, and let us know whether
5 you're going to provide a witness.

6 And then we would -- right now we'll
7 schedule cultural resources down in Bakersfield,
8 so that if you do have a witness that person could
9 attend the hearing.

10 MS. GRIFFIN: Now, Kern County has some
11 of the most valuable fossils in the world. And I
12 didn't see --

13 PRESIDING MEMBER LAURIE: Well, --

14 HEARING OFFICER GEFTER: Once again,
15 that's --

16 MS. GRIFFIN: You've got two things, you
17 know, the poaching I can't emphasize -- for
18 instance, Tenneco, when he owned the land across
19 the freeway from it, and armed guards year round.
20 And all the oil companies will tell you that
21 things get really bad when you have the Tucson and
22 Denver rock shows, the trespassing and the
23 poaching. It sounds funny, but they're very
24 serious and these are treasures, these are real
25 treasures for all the people of California --

1 HEARING OFFICER GEFTER: We understand
2 it's a major concern. And, in fact, there's quite
3 a bit of discussion in both the staff's analysis
4 and in the applicant's application.

5 We understand that these are very valid
6 concerns, and if you can perhaps address some of
7 them in your filings to us by September 8th, and
8 also we will conduct the hearing down in
9 Bakersfield --

10 PRESIDING MEMBER LAURIE: Well, let
11 me -- Ms. Gefter, I'd be willing to conduct the
12 hearing in Bakersfield if something is going to be
13 added.

14 MS. GRIFFIN: Yeah, that's if I can --

15 PRESIDING MEMBER LAURIE: So, if, in
16 your filing on the 8th, you indicate that you
17 intend to submit testimony, that has to be live
18 testimony, then we'll conduct it on the 19th.
19 Otherwise we'll do it on the 18th.

20 MS. GRIFFIN: Okay, I'll see if I can
21 round somebody up.

22 PRESIDING MEMBER LAURIE: And look at
23 the holes that you perceive in the information
24 that's already there. And if you believe that
25 there are deficiencies, then that's certainly what

1 we'd be most interested in looking at.

2 MR. THOMPSON: Let me suggest that you
3 may want to look at the response of our last
4 cultural data request. I believe that we had two
5 representatives of the Indian tribe that is local
6 assisting in the cultural surveys.

7 If that's not enough, submit whatever
8 you want. But I wanted to point that out.

9 MS. GRIFFIN: I haven't seen those.

10 HEARING OFFICER GEFTER: They would be
11 docketed, and we can get you a copy today before
12 you leave.

13 MS. GRIFFIN: Okay.

14 HEARING OFFICER GEFTER: All right.
15 With respect to the surveys that were conducted by
16 applicant's consultants, there were four new sites
17 that were recommended for significant testing.
18 And it was left that the status was pending.

19 Is there any update on that, or if you
20 can give us some more information.

21 MR. WEHN: Yes, we actually went out and
22 conducted a survey, a site survey, and there's a
23 report that was completed and docketed at the
24 Commission.

25 HEARING OFFICER GEFTER: All right, so

1 we'll look at that report, and also give Ms.
2 Griffin the report.

3 MR. THOMPSON: That report is
4 confidential.

5 HEARING OFFICER GEFTER: Ah, all right.
6 Would you be able to give us some sort of summary
7 or some information about at least the sites that
8 were recommended for testing, is the process
9 that --

10 MR. WEHN: Can we take that under
11 advisement and try --

12 HEARING OFFICER GEFTER: Certainly.

13 MR. WEHN: -- to make sure that we don't
14 breach any confidentiality that --

15 HEARING OFFICER GEFTER: Absolutely.

16 MR. WEHN: -- at least try to present
17 what we found?

18 HEARING OFFICER GEFTER: Thank you.

19 The next topic is socioeconomic. Are
20 there any pending matters in socioeconomic that
21 the applicant is aware of?

22 MR. THOMPSON: We don't believe that
23 there are any outstanding issues. We think it is
24 complete, and although in our prehearing
25 conference statement I think I suggested the 19th,

1 this may be a good area for the 18th.

2 HEARING OFFICER GEFTER: Staff.

3 MS. LEWIS: That would be fine.

4 HEARING OFFICER GEFTER: Ms. Griffin.

5 MS. GRIFFIN: No, for socioeconomic,
6 they said they would try to hire people from Kern
7 County, and they would try to buy from Kern
8 County? Is that socioeconomic?

9 HEARING OFFICER GEFTER: That's one of
10 the issues that's --

11 MS. GRIFFIN: Am I on the right track?

12 HEARING OFFICER GEFTER: Yes, that's one
13 of the issues.

14 MS. GRIFFIN: Are they going to ask for
15 a development agreement from the county?

16 PRESIDING MEMBER LAURIE: It's not on
17 any of our lists, a development agreement is a
18 discretionary approval, it hasn't been listed.
19 For the power plant?

20 MS. GRIFFIN: Um-hum.

21 PRESIDING MEMBER LAURIE: Mr. Thompson?

22 MR. THOMPSON: I don't know of any
23 development agreement on the proposal --

24 PRESIDING MEMBER LAURIE: I think a
25 development agreement would not be something that

1 would be done for this kind of project.

2 MR. THOMPSON: This will be a union
3 project. And the unions will be supplying the
4 workers to the project.

5 We have been informed by the union that
6 most all of the workers will be local. But our
7 work force will be supplied to us by the
8 appropriate union.

9 HEARING OFFICER GEFTER: Mr. Thompson,
10 that was one of the questions that I had,
11 actually, for the applicant, would be to provide
12 information with respect to the union contract.

13 I understand there is a project labor
14 contract with the Pipefitters. Perhaps you could
15 give us some information, supplemental testimony,
16 with respect to their role in supplying the
17 workforce.

18 MR. THOMPSON: Will do.

19 HEARING OFFICER GEFTER: Thank you.

20 MS. GRIFFIN: I have another question.

21 HEARING OFFICER GEFTER: Certainly.

22 MS. GRIFFIN: Is ENRON going to apply
23 for the County's incentive program, economic
24 incentive program?

25 MR. THOMPSON: We have no plans right

1 now, but we are some distance away from the
2 selection of an engineer procurement and
3 constructing agreement or contractor. So, that
4 could change in the future, but right now there
5 are no plans.

6 HEARING OFFICER GEFTER: If you are
7 going to have questions on this topic, perhaps you
8 can again submit them to us. But at this point
9 there doesn't seem to be need for live witnesses
10 on the topic. We're going to probably plan it for
11 here in Sacramento, and do it by teleconference.
12 Are you proposing to bring a witness?

13 MS. GRIFFIN: No, but I might submit a
14 piece of paper from the County, from the County
15 departments on the program. Yeah, their incentive
16 programs.

17 HEARING OFFICER GEFTER: Sure, that
18 would be fine.

19 MS. GRIFFIN: Which are, you know, to me
20 we're subsidizing corporate America, and it's not
21 that I'm for them, --

22 HEARING OFFICER GEFTER: Well, again,
23 that's --

24 MS. GRIFFIN: -- you know, --

25 HEARING OFFICER GEFTER: -- the kind of

1 discussion perhaps you could have directly with
2 the applicant after we conclude today's events.

3 I do have some questions for the
4 parties. Clarification as to why a two-hour, one-
5 way commute trip was chosen to assess how many
6 people would be commuting, how many people would
7 be moving into the area, rather than a typical
8 one-hour commute. And if you can address that.

9 The PSA found that the impacts to the
10 schools cannot be mitigated due to current state
11 law. And so there was no mitigation proposed by
12 the applicant. Is there some further discussion
13 or idea of mitigation that the applicant might be
14 interested in providing, given that there is an
15 expectation that there will be some impact on the
16 schools, particularly in the Bakersfield area?
17 Perhaps you can address that to us in supplemental
18 testimony.

19 Then again, I mentioned this earlier, a
20 cumulative impact analysis regarding the Tejon
21 industrial complex with respect to schools,
22 traffic, fire department and medical services.

23 If that development is going to come
24 into effect around the same time as the Pastoria
25 project, there could be impacts to the schools, to

1 traffic, to emergency services for both projects.
2 So perhaps you could address that for us under the
3 socioeconomic topic.

4 Particularly, do you have an idea, a
5 timeline for development of that Tejon industrial
6 complex.

7 PRESIDING MEMBER LAURIE: Are you buying
8 fire trucks or anything, Mr. Thompson?

9 MR. THOMPSON: We are not buying fire
10 trucks. I think we may be supplying an emergency
11 helicopter, helipad, and it would be in
12 conjunction of moving a fire truck and building a
13 fire station on kind --

14 PRESIDING MEMBER LAURIE: Will we --

15 MR. THOMPSON: -- of a three-party
16 effort.

17 PRESIDING MEMBER LAURIE: Will we be
18 getting anything in the form of written
19 correspondence from the County indicating that in
20 their view emergency response impacts have been
21 mitigated by whatever deal you're going to do?

22 MR. THOMPSON: We had not contemplated
23 having something like that, but we have worked
24 closely with the County. I think it's -- this
25 actually was the County's idea of putting this

1 together for what they thought were the best
2 purposes. So I would be real surprised if we
3 can't get a letter saying that it's what they want
4 and that it suffices.

5 PRESIDING MEMBER LAURIE: It doesn't
6 matter to us what the deal is. We simply have to
7 know that there's a deal.

8 MR. THOMPSON: Understand.

9 HEARING OFFICER GEFTER: Also, in terms
10 of our scheduling we are going to have the worker
11 safety topic down in Bakersfield. I understand we
12 had spoken earlier that a representative of the
13 fire department would be there on that topic.

14 And it overlaps with the discussion of
15 socioeconomics regarding the fire department and
16 its emergency response.

17 Question whether we should have both
18 topics down in Bakersfield since we're going to
19 have a fire department representative. We'll talk
20 about that some more when we add up and see which
21 topics are scheduled for the 18th and the 19th,
22 and see whether it makes sense.

23 The next topic is biological resources.

24 DR. UNGER: Hello.

25 HEARING OFFICER GEFTER: Hello,

1 Mr. Unger, yes, we're going to talk about
2 biological resources.

3 DR. UNGER: Yeah, could I get in a
4 minute. I believe you covered on a couple other
5 topics. Didn't you cover cultural resources?

6 HEARING OFFICER GEFTER: We spoke about
7 socioeconomics, is that the topic you --

8 DR. UNGER: Ma'am?

9 HEARING OFFICER GEFTER: Socioeconomics?

10 DR. UNGER: You covered socioeconomics?

11 HEARING OFFICER GEFTER: And cultural
12 resources.

13 DR. UNGER: And you did cover cultural
14 resources?

15 HEARING OFFICER GEFTER: Yes.

16 DR. UNGER: I had a question about
17 cultural resources.

18 HEARING OFFICER GEFTER: All right. Go
19 ahead.

20 DR. UNGER: Is it your responsibility to
21 contact the Native American community, or ours, or
22 both?

23 HEARING OFFICER GEFTER: The applicant
24 has already done that. Perhaps you would wish to
25 talk to them about the process by which they

1 contacted the cultural resource, the Native
2 American community. You could do that when we
3 complete today's event, speak with the applicant
4 about that.

5 DR. UNGER: Okay.

6 HEARING OFFICER GEFTER: Right now we're
7 going to go on to biological resources. We don't
8 really need to go through whether it's contested
9 or not contested. We're going to go ahead and
10 have that hearing down in Bakersfield.

11 There are several documents that are
12 pending. We're going to need an update on when
13 those documents are expected to be filed.

14 I understand, of course, that both the
15 Audubon Society and the Sierra Club are very
16 concerned about the biological impacts and the
17 mitigation plan that is proposed in this topic.
18 And we're going to discuss all of that in
19 Bakersfield.

20 So we don't need to spend a lot of time
21 on that topic right now. Other than my questions
22 regarding basically the status of the proposed
23 mitigation measure with respect to the kit fox
24 easement, and how that proposal is going along
25 with respect to the other agencies that are

1 involved, the U.S. Fish and Wildlife Service, and
2 the California Fish and Game Department.

3 And then all of the other, the habitat
4 conservation plan, the biological opinion, the
5 streambed alteration agreement, the BRMIMP, and
6 the Clean Water Act permits. All of those
7 documents and reports need to be before the
8 Commission before we get to the end of this
9 process. And we need to have a status report on
10 those documents.

11 The next topic is water resources.
12 Previously there were some concerns with respect
13 to the applicant's water supply plan. I hope --
14 those issues have been resolved, I understand?

15 MR. THOMPSON: This is applicant. Yes,
16 we hope that they have been resolved, as well. We
17 understand that there is resolution and that we do
18 not have a contested water topic area.

19 I think that I have this down for the
20 19th, as well.

21 MS. LEWIS: Yes, there are no contested
22 issues at this point. The 19th is a good date.

23 PRESIDING MEMBER LAURIE: Are we going
24 to see the equivalent of a will-serve from the
25 local district?

1 MR. WEHN: This is Sam Wehn. The
2 validation action was completed last Wednesday.
3 They were supposed to go the judge today to have
4 them perfected. And the agreement, once that's
5 done, will then be executed by both parties, and
6 by the 18th we should -- or 19th, we should,
7 without question, have the document available.

8 PRESIDING MEMBER LAURIE: Thank you,
9 sir.

10 HEARING OFFICER GEFTER: With respect to
11 water we're going to have witnesses; staff and the
12 applicant are going to provide witnesses.

13 We'd like to have a discussion of the
14 alternatives, dry cooling and hybrid cooling,
15 compared with the proposed water supply plan.

16 And geology is the next topic. From the
17 submittals of the parties geology doesn't appear
18 to be a contested issue. And it was proposed for
19 September 18th.

20 I have one question regarding the known
21 seismic fault that is either on the property or
22 near the property. There was some discussion that
23 there was equipment damage and ground cracking at
24 the pumping plant nearby. And whether that is
25 being taken into consideration in the design of

1 the project.

2 And we'd like some discussion on that in
3 the geology section and also the facility design
4 section.

5 The geology section, that topic will be
6 heard on September 18th.

7 And the next topic is facility design.
8 Again, that one is scheduled for September 18th
9 unless there are some issues where the intervenors
10 intend to present witnesses or would like to
11 present witnesses.

12 And, again, with respect to facility
13 design, I'd like to have more in-depth discussion
14 of the seismic conditions at the project site.

15 And that hearing would occur on
16 September 18th in Sacramento.

17 With respect to reliability and
18 efficiency, again we're not aware of any contested
19 issues. I'm going to schedule it for September
20 18th in Sacramento, both of those topics.

21 I just have one request for
22 clarification, and that would be with respect to
23 the availability of natural gas. Typically in our
24 power plant decisions we find that natural gas is
25 available.

1 In California there's an abundant
2 quantity of natural gas, but even as we speak, the
3 information is changing, and we'd like to see some
4 clarification, perhaps, from the parties a more
5 in-depth discussion of where the natural gas is
6 coming from, and the reliability of that supply.
7 Also, the pipelines that will be serving this
8 project.

9 MR. THOMPSON: We will do that. The
10 difficulties in southern California, I believe,
11 are not a commodity difficulty; they're a pipeline
12 constraint in coming off the interstate lines.

13 We will talk about the -- and I think
14 it's already in the record, but we'll reiterate an
15 ad to the location of the interstate lines, and
16 the basins from which they pull.

17 HEARING OFFICER GEFTER: And then there
18 was some -- is there more, Mr. Thompson? I'm
19 sorry. Do you have more?

20 MR. THOMPSON: I'm sorry?

21 MR. WEHN: We need to talk about this
22 internally and we will then present all of this to
23 you.

24 HEARING OFFICER GEFTER: Thank you.

25 PRESIDING MEMBER LAURIE: Okay, what's

1 the length of the pipeline that you have to run to
2 the pipe, of the gas pipeline?

3 MR. WEHN: It's approximately 11.6
4 miles.

5 PRESIDING MEMBER LAURIE: Okay. And
6 that is included in the project description, is it
7 not?

8 MR. WEHN: Yes, it is.

9 PRESIDING MEMBER LAURIE: Okay, now,
10 will there be any evidence in the record that will
11 suggest that additional improvements to the
12 regional pipeline structure will be necessitated
13 by this project? That is, will the gas supply, if
14 offered an opportunity to testify, that
15 enhancements to the overall system have to be made
16 in order to serve your project?

17 MR. WEHN: I know of no enhancements at
18 this point, in discussions with the gas supplier.

19 PRESIDING MEMBER LAURIE: Who is your
20 gas supplier?

21 MR. WEHN: We are currently talking to
22 Kern-Mojave in order to provide the transport.
23 And with regard to the commodity, they could be
24 the provider 100 percent, or it could be others
25 with Kern-Mojave being an element of that.

1 The real question is, and we haven't
2 made the final decision at this point, is how much
3 firm supply will we buy versus spot market. It's
4 all based upon what the projections in the future
5 of the supply in natural gas.

6 PRESIDING MEMBER LAURIE: By the time of
7 the evidentiary hearing will we have -- strike
8 that.

9 What evidence will there be in the
10 record that will indicate that you have contracted
11 with a gas supplier, and that there is available
12 gas to serve the project?

13 MR. WEHN: I think -- to directly answer
14 your question, I will not have a document that I
15 can provide you that says we have a contract with
16 someone to supply gas.

17 What I think I can provide to you is
18 evidence that there are sufficient quantities of
19 gas that can be delivered to this site in order to
20 support this project for 20 years. Or the life of
21 the plant, believing it will run for a longer than
22 a 20-year period.

23 The actual agreement is going to take a
24 number of months for us to negotiate and finalize.
25 My expectation at this moment is that by the end

1 of the year we will have agreements in place.

2 But I won't have anything to provide you
3 as an executed agreement by the evidentiary
4 hearings. I'd be happy, however, to bring in my
5 folks from Houston, and I will bring in Williams,
6 Kern-Mojave, and be happy to have them make a
7 presentation on the availability of gas that would
8 be transported across this line.

9 PRESIDING MEMBER LAURIE: I would --
10 that would be helpful. It would be helpful to the
11 record and it would be helpful to the Commission.
12 You may be aware that availability of gas supply
13 is not a question unique to this project, but
14 rather it's one that's being raised throughout
15 California and nationally, as a matter of fact.

16 So, if you can have that witness
17 available it would be beneficial.

18 MR. THOMPSON: Mr. Commissioner, if --
19 it's easy to commit our own folks to appearances.
20 If, by chance, we cannot get someone from the
21 Williams pipeline to be present, I would propose
22 for you approval that we have them write a letter
23 to ourselves or the record, not only explaining
24 about any upstream improvements to the system that
25 are necessary, but provide a discussion of gas

1 supply that they believe would be available over
2 time through their pipeline system.

3 PRESIDING MEMBER LAURIE: It would be
4 given that degree of credibility that any other
5 written testimony would, Mr. Thompson.

6 MR. THOMPSON: Okay, thank you.

7 HEARING OFFICER GEFTER: And, again, the
8 written testimony or other submittals are due by
9 September 8th, ten days before the evidentiary
10 hearings.

11 The, as I said before, reliability and
12 efficiency will -- those hearings will occur on
13 the 18th in Sacramento.

14 The next topic is transmission system
15 engineering. Again, the parties indicated there
16 were no contested issues.

17 We're awaiting the final report from the
18 Cal-ISO. Mr. Micsa was on the line earlier today;
19 indicated that he had filed a document with staff
20 indicating approval of the facility's design --
21 I'm sorry, not facilities design, the DFS,
22 detailed facility study.

23 MS. LEWIS: That's right, we received
24 that this morning.

25 HEARING OFFICER GEFTER: And will

1 Mr. Micsa be available to submit his testimony in
2 person at the hearing?

3 MS. LEWIS: Yes, he will.

4 HEARING OFFICER GEFTER: At this point
5 we'll schedule that for September 18th in
6 Sacramento. Mr. Micsa is located in Sacramento,
7 is that correct?

8 MS. LEWIS: Yes.

9 PRESIDING MEMBER LAURIE: Ms. Gefter, a
10 question of staff. Is Mr. Micsa going to be in
11 the position to testify as to cumulative impacts
12 on transmission lines?

13 MR. RATLIFF: I have not discussed it
14 with him. But, it would be my expectation that he
15 would be able to.

16 PRESIDING MEMBER LAURIE: The question
17 will be asked, Mr. Ratliff.

18 MR. RATLIFF: Yes. And typically it's
19 something staff, itself, also addresses. So, when
20 you say cumulative impacts I think you might also
21 mean indirect impacts downstream. Do you mean
22 downstream impacts from the project --

23 PRESIDING MEMBER LAURIE: That's
24 correct, and --

25 MR. RATLIFF: -- that would be

1 reinforcements --

2 PRESIDING MEMBER LAURIE: -- we're
3 using, I'm sorry, we are using a reasonable
4 standard to depict what downstream means.

5 MR. RATLIFF: Right. Of course. I will
6 talk with the witnesses about this, and suggest
7 that they make a point of being ready to address
8 that.

9 PRESIDING MEMBER LAURIE: Thank you.

10 HEARING OFFICER GEFTER: Also, the
11 Department of Water Resources indicated a concern
12 about impacts on DWR facilities and we want to
13 know whether that concern has been addressed.

14 MS. LEWIS: Yes, and we are responding
15 to their letter in our agency comments.

16 HEARING OFFICER GEFTER: Is that going
17 to be included in the FSA?

18 MS. LEWIS: Yes, it will.

19 HEARING OFFICER GEFTER: Does that
20 remain an issue, or is that resolved?

21 MS. LEWIS: No, it's resolved.

22 HEARING OFFICER GEFTER: The next topic
23 would be alternatives. And there weren't any
24 issues between the staff and the applicant with
25 respect to the alternatives analysis.

1 Ms. Griffin, do you have concerns or
2 questions regarding the alternatives analysis?

3 MS. GRIFFIN: Well, I wish it was
4 someplace else. I haven't looked at that --
5 mostly I've looked at it in regard to the --
6 contracts and stuff. There certainly are a lot of
7 cogen plants in Kern County.

8 I have no concerns at this time.

9 HEARING OFFICER GEFTER: All right. Mr.
10 Unger, do you have any further comments on the
11 topic of alternatives?

12 DR. UNGER: Can you repeat that?

13 HEARING OFFICER GEFTER: Do you have any
14 comments or questions on the topic of
15 alternatives?

16 DR. UNGER: Alternatives?

17 HEARING OFFICER GEFTER: Yes.

18 DR. UNGER: Yes, as my letter says, we
19 don't need the whole plant if we would conserve
20 energy. And I'll try to, you know, bring some
21 more evidence of that on September 18th or 19th or
22 whenever it is. But there's going to be another
23 session.

24 HEARING OFFICER GEFTER: Yes. And
25 anything that you want to file in writing is due

1 on September 8th.

2 DR. UNGER: Say again, please?

3 HEARING OFFICER GEFTER: Anything that
4 you wish to file in writing is due on September
5 8th.

6 DR. UNGER: Thank you.

7 HEARING OFFICER GEFTER: Okay, thank
8 you. We'll conduct the hearing on alternatives
9 here in Sacramento on September 18th.

10 And the last topic is compliance. There
11 have been no issues with respect to the compliance
12 section of the PSA. We'll conduct that session
13 here on September 18th in Sacramento.

14 That concludes the list of topics. And
15 I was -- just to reiterate the dates, I think we
16 have about eight topics scheduled for Bakersfield.
17 I'll go over that with everyone.

18 Actually project description we didn't
19 really, we didn't really -- we didn't pick a
20 location. I would suggest we do that September
21 18th; I'd like to do that as the first topic
22 because that basically drives the rest of the
23 case. So project description would be September
24 18th.

25 The following topics would be September

1 19th: Air quality; public health; land use;
2 visual resources; cultural resources unless there
3 are no witnesses, but we'll leave that tentative
4 at this point; biological resources; soil and
5 water; and that's it.

6 So actually we probably would have time
7 to do the cultural resources topic down in
8 Bakersfield. For certainty for everybody we'll
9 just schedule it for the 19th, cultural resources.

10 Does that schedule seem all right with
11 people, with all the parties?

12 MR. RATLIFF: Would it be possible to
13 clarify which areas staff will be presenting a
14 witness in, in your view?

15 HEARING OFFICER GEFTER: We're going to
16 issue a scheduling order, an evidentiary
17 scheduling order. And in that order we'll
18 indicate to you --

19 MR. RATLIFF: Okay.

20 HEARING OFFICER GEFTER: -- which topics
21 would require staff witnesses.

22 PRESIDING MEMBER LAURIE: I would note
23 that we are according these hearings only one day
24 apiece. We're going to have to hustle during the
25 day. And all that means is that I would ask that

1 those parties responsible fully prepare their
2 clients for the testimony that's going to be
3 offered, if any, so we can move through these
4 hearings in a timely manner.

5 MR. THOMPSON: Mr. Commissioner, we will
6 do so, and we will try to make our filed testimony
7 on the 8th as complete as possible to assist the
8 record, especially in answering the questions that
9 have been brought up today.

10 I am going to operate on the assumption
11 that we will have live witnesses in all of the
12 Bakersfield areas, but look forward to the hearing
13 order for your decision on that.

14 HEARING OFFICER GEFTER: Are there any
15 other comments from any of the parties before we
16 adjourn?

17 MS. GRIFFIN: I have a comment.

18 HEARING OFFICER GEFTER: Yes.

19 MS. GRIFFIN: I have two questions for
20 ENRON. If they have a special meeting of the Kern
21 County Planning Commission, other than the second
22 and fourth Thursdays, will ENRON pay for it?

23 MR. WEHN: Could you repeat the
24 question, please?

25 MS. GRIFFIN: Our County schedules its

1 planning commission meetings on the evenings of
2 the second and fourth Thursdays of the month.

3 Now, if ENRON wants a special meeting on
4 the 7th, rather than the regularly scheduled 14th,
5 will they pay for it?

6 HEARING OFFICER GEFTER: That's a
7 discussion that takes place outside of our forum.

8 MS. GRIFFIN: Okay.

9 HEARING OFFICER GEFTER: So that's not
10 particularly -- we don't need to discuss --

11 MS. GRIFFIN: And then ENRON also said
12 they had two local Indians go out there and have a
13 look around. Now were there names in any of the
14 documents that I've read? I mean I don't want to
15 know about the artifacts, or you know, that's fine
16 with me to be confidential. But at least the
17 names of the people who were signing off on this
18 stuff, do you know the names?

19 MS. SCHOLL: There were supplemental
20 data requests from the CEC that we'll forward
21 those responses with the requests to Mary Griffin.

22 HEARING OFFICER GEFTER: Thank you.
23 And, Ms. Griffin, we will provide you documents
24 that are in our docket right now that you haven't
25 received. We'll go and find those documents for

1 you.

2 All right, at this point there are no
3 further comments, and --

4 MR. THOMPSON: I would like to note I
5 believe that we had one of our consultants and Ms.
6 Griffin, the biology documents that were in the --
7 you haven't received anything?

8 MS. GRIFFIN: No, nothing.

9 HEARING OFFICER GEFTER: Let's discuss
10 this off the record.

11 MS. GRIFFIN: Yeah.

12 HEARING OFFICER GEFTER: The prehearing
13 conference is adjourned.

14 (Whereupon, at 4:25 p.m., the conference
15 was concluded.)

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CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter,
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